

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CINDY BARBERA, CARLENE
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA
BOONE, ELVIRA BUMPUS, EVANJELINA
CLEEREMAN, SHEILA COCHRAN, LESLIE W.
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,
CLARENCE JOHNSON, RICHARD KRESBACH,
RICHARD LANGE, GLADYS MANZANET,
ROCHELLE MOORE, AMY RISSEEUW, JUDY
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability
Board, each only in his official capacity:
MICHAEL BRENNAN, DAVID DEININGER, GERALD
NICHOL, THOMAS CANE, THOMAS BARLAND, and
TIMOTHY VOCKE, and KEVIN KENNEDY, Director
and General Counsel for the Wisconsin Government
Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,
PAUL D. RYAN, JR., REID J. RIBBLE,
and SEAN P. DUFFY,

Intervenor-Defendants,

(caption continued on next page)

DECLARATION OF DR. KENNETH R. MAYER

Civil Action
File No. 11-CV-562

Three-judge panel
28 U.S.C. § 2284

VOCES DE LA FRONTERA, INC., RAMIRO VARA,
OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011
JPS-DPW-RMD

Members of the Wisconsin Government Accountability
Board, each only in his official capacity:
MICHAEL BRENNAN, DAVID DEININGER, GERALD
NICHOL, THOMAS CANE, THOMAS BARLAND, and
TIMOTHY VOCKE, and KEVIN KENNEDY, Director
and General Counsel for the Wisconsin Government
Accountability Board,

Defendants.

I, Kenneth R. Mayer, declare, under penalty of perjury and pursuant to 28 U.S.C. § 1746,
that the following is true and correct:

1. I currently am a Professor of Political Science at the University of Wisconsin—
Madison, and a faculty affiliate at the LaFollette School of Public Affairs, at the University. I
joined the faculty in 1989. I teach courses on American politics, the presidency, Congress,
campaign finance, election law, and electoral systems.

2. I have been asked by counsel representing the plaintiffs in this lawsuit to provide
expert opinions in the above-captioned case. I submitted an expert report on December 14, 2011,
and a rebuttal report on January 13, 2012. I testified at the trial in this matter on February 23 and
24, 2012.

3. On March 27, 2012, counsel for the plaintiffs asked me to develop proposed
configurations for Assembly Districts 8 and 9 that were responsive to the Court's rulings.
Plaintiffs selected one of these options, with input from members of Milwaukee's Latino
community, to be submitted to the Court as their proposed remedy.

4. Attached as **Exhibit A** to this declaration is a map that shows plaintiffs' proposed configuration for Assembly Districts 8 and 9.

5. As reflected in the map that appears in Exhibit A to this declaration, the combined outline of proposed Districts 8 and 9 is unchanged from the districts' combined outline in Act 43.

6. The demographics of the districts are shown in the table below. The proposed districts change the overall population deviation of the entire Assembly plan, as the deviation in the proposed 8th (-0.43%) is marginally larger (in absolute terms) than the deviation in the existing plan (in which the Assembly District 1 has the largest negative deviation, of -0.39%). The total deviation of all districts would now become 0.8%, as compared to a previous total deviation of 0.76%. The proposed Assembly District 8 is compact, regularly shaped, and follows important geographic features, using railroads, rivers, parks, and major streets as boundaries as much as practicable.

7. All of my calculations of citizenship use figures from the 2006-2010 American Community Survey. In the City of Milwaukee, the Hispanic Voting Age population has a 42% noncitizen rate, while the Non-Hispanic Voting Age population has a 1.5% noncitizen rate. All of the methodologies and calculations that I used to create plaintiffs' proposed districts are the same as those that I followed in the opinions that I presented to the Court at trial.

8. The proposed Assembly District 8 has an Hispanic Citizen Voting Age Percentage of 55.22%, which, in my opinion, is the minimum necessary in order to achieve an *effective* majority given the documented differentials in voter turnout and voter registration.

9. I estimate the non-Hispanic citizen voting age population of the proposed Assembly District 8 to be 44.78%. Based on turnout in the 2008 presidential election in the 2002 wards completely or partly included in the proposed District 8, the most concentrated areas of the district—in which the Hispanic Voting Age Population is 70% or higher, which translates into a

Hispanic Citizen Voting Age Population of approximately 58% or higher (though this figure may vary depending on the specific concentrations)—had turnout rates varying between 23% and 36% of the total voting age population. The highest turnout areas of the proposed District 8 are Ward 201, where 50% of the voting age population voted in the 2008 presidential election, and portions of Ward 235, where 44% of the voting age population voted in 2008. Based on the 2010 Census, Ward 235 had a Hispanic VAP concentration of 44.3%, and Ward 201 had a Hispanic VAP concentration of 24.8%. The differentials in turnout in these areas, which reflect roughly turnout ratios of 1.5 to 1 to 2 to 1 compared to the areas with higher Hispanic Voting Age concentrations, and less than 10% of the voting age population in the proposed District 8 (approximately 3,500 persons out of a total voting age population of 36,986), is unlikely to offset the voting power of the eligible Latino voters in the proposed district.

10. It is possible, however, that even a 55.2% Hispanic Citizen Voting Age concentration may not be sufficient to provide an equal opportunity for the Hispanic community to elect a candidate of choice, and that higher concentrations would provide additional protection. A district that has concentrations of 57% or 58% can be drawn, but only by sacrificing other important principles, such as population equality, or ignoring the expressed wish of the community that the Walkers Point area (at the eastern border of the proposed District 8, along the Milwaukee River) should be included in Assembly District 8.

11. The proposed Assembly District 8 eliminates the problems of the Act 43's configuration of the district in the following areas:

a. The proposed District 8 has a core population retention of 75.8%, which is much greater than the 55.3% core population retention of the district as configured in Act 43. The proposed District 8 retains the key areas at the core of the Hispanic community, and does not add significant new areas to the district.

b. By not using 16th Street as a border south of National Avenue, the proposed District 8 maintains the key geographic elements of the Hispanic community of interest.

c. The proposed District 8 does not add new areas of higher turnout, lower Hispanic populations.

12. In my opinion, with the retention of the core areas of the 2002 Assembly District 8 and the creation of a 55.2% supermajority of the Hispanic Citizen Voting Age Population, the proposed District 8 provides an equal opportunity for Hispanic voters to elect a candidate of choice. Lower concentrations of eligible Hispanic populations will not preserve that opportunity. The proposed configuration seeks to strike a balance between an appropriate HCVAP concentration and traditional principles of redistricting while taking into account community consensus.

13. The proposed Assembly District 9 has an Hispanic Citizen Voting Age Percentage of 34.78%. This concentration cannot be increased without reducing the Hispanic Citizen Voting Age Percentage in the proposed Assembly District 8.

14. The demographics of the proposed assembly districts are summarized in the table below:

Demographics of Remedy Assembly Districts	8th Assembly District	9th Assembly District
Total Population	57,196	57283
Deviation	-0.43%	-0.28%
Core Population Retention	75.84%	69.19%

Voting Age Population	36,986	39,653
Hispanic Voting Age Population	25,032	18,843
Non-Hispanic Voting Age Population	11,954	20,810
Hispanic Citizen Voting Age Population	14,519	10,929
Non-Hispanic Citizen Voting Age Population	11,775	20,498
Hispanic Voting Age Population %	67.68%	47.52%
Citizen Hispanic Voting Age Population %	55.22%	34.78%

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 3, 2012.

s/ Kenneth R. Mayer

Kenneth R. Mayer

7720809_1